

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1016

Introduced by Christensen, 44.

Read first time January 20, 2010

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to water resources; to amend sections
2 2-1599, 2-15,100, 2-15,101, 2-15,103, 2-15,105, 2-15,106,
3 and 61-206, Reissue Revised Statutes of Nebraska, and
4 sections 49-506 and 49-617, Revised Statutes Cumulative
5 Supplement, 2008; to adopt the Nebraska Statewide Water
6 Planning Commission Act; to harmonize provisions; and to
7 repeal the original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 13 of this act shall be
2 known and may be cited as the Nebraska Statewide Water Planning
3 Commission Act.

4 Sec. 2. For purposes of the Nebraska Statewide Water
5 Planning Commission Act:

6 (1) Commission means the Nebraska Statewide Water
7 Planning Commission; and

8 (2) Executive director means the executive director of
9 the Nebraska Statewide Water Planning Commission.

10 Sec. 3. (1) The Nebraska Statewide Water Planning
11 Commission is created. The commission shall consist of seven
12 members, appointed by the Governor and subject to confirmation by
13 a majority of the members elected to the Legislature. A member may
14 be removed by the Governor for cause. Of the members initially
15 appointed, three shall serve for terms of two years and four shall
16 serve for terms of four years. Thereafter, members shall serve for
17 terms of four years and until their successors are appointed and
18 qualified.

19 (2) The commission shall exercise the powers and perform
20 the duties carried out by the Division of Planning and Assistance
21 of the Department of Natural Resources before the effective date of
22 this act and the duties described in the Nebraska Statewide Water
23 Planning Commission Act.

24 Sec. 4. (1) The chief administrative officer of the
25 commission shall be the executive director. The executive director

1 shall be appointed by the members of the commission. The executive
2 director shall employ such personnel, including legal and technical
3 personnel, as may be required to carry out the duties and
4 responsibilities of the commission.

5 (2) The executive director shall adopt a seal. Copies of
6 all records or other instruments of the commission when certified
7 by the commission as true copies and bearing the seal thereof shall
8 be received in any court as prima facie evidence of the original
9 record or instruments.

10 Sec. 5. (1) The executive director may adopt and
11 promulgate rules and regulations for the commission. The executive
12 director shall administer rules and regulations adopted and
13 promulgated by the commission.

14 (2) The rules, regulations, and orders of the Department
15 of Natural Resources and the Nebraska Natural Resources Commission
16 relating to duties transferred to the Nebraska Statewide Water
17 Planning Commission pursuant to the Nebraska Statewide Water
18 Planning Commission Act shall remain in effect unless changed
19 or eliminated by the executive director.

20 Sec. 6. The duties of the commission include, but are not
21 limited to:

22 (1) Developing a statewide plan for the future use of
23 water in the state;

24 (2) Maintaining and maximizing the use of water in this
25 state;

1 (3) Creating a plan to manage the state's water resources
2 to encourage economic health and prosperity; and

3 (4) Make recommendations to the Governor and the
4 Legislature for achieving the goals set forth in the plan developed
5 pursuant to subdivision (1) of this section.

6 Sec. 7. (1) The Nebraska Statewide Water Planning
7 Commission Fund is created. The fund shall consist of funds
8 appropriated by the Legislature and transfers by the State
9 Treasurer pursuant to this section. Any money in the fund available
10 for investment shall be invested by the state investment officer
11 pursuant to the Nebraska Capital Expansion Act and the Nebraska
12 State Funds Investment Act.

13 (2) On the effective date of this act, or as soon
14 thereafter as administratively possible:

15 (a) The State Treasurer shall transfer any unexpended
16 and unobligated funds allocated to the Division of Planning and
17 Assistance of the Department of Natural Resources for the 2009-11
18 biennium to the Nebraska Statewide Water Planning Commission Fund;
19 and

20 (b) The State Treasurer shall transfer the unexpended and
21 unobligated balance of the Water Policy Task Force Cash Fund to the
22 Nebraska Statewide Water Planning Commission Fund.

23 Sec. 8. Section 2-1599, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 ~~2-1599~~ In order to provide for the effective conservation

1 and management of Nebraska's water resources, the Legislature
2 hereby endorses the concept of a state water planning and
3 review process. The purpose of this planning process shall be
4 to coordinate and direct the planning efforts of the state agencies
5 and university divisions with responsibilities and interest in
6 the water resources field. This interagency planning process shall
7 be designed to: (1) Provide the Legislature and the citizens of
8 Nebraska with information and alternative methods of addressing
9 important water policy issues and areawide or statewide water
10 resources problems; (2) provide coordinated interagency reviews
11 of proposed local, state, and federal water resources programs
12 and projects; (3) develop and maintain the data, information,
13 and analysis capabilities necessary to provide state agencies and
14 other water interests with a support base for water planning and
15 management activities; (4) provide the state with the capacity to
16 plan and design water resources projects; and (5) conduct any other
17 planning activities necessary to protect and promote the interests
18 of the state and its citizens in the water resources of Nebraska.

19 Sec. 9. Section 2-15,100, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~2-15,100~~ The state water planning and review process
22 shall be conducted under the guidance and general supervision of
23 the executive director. The executive director shall be assisted in
24 the state water planning and review process by the Department of
25 Natural Resources, the Game and Parks Commission, the Department of

1 Agriculture, the Governor's Policy Research Office, the Department
2 of Health and Human Services, the Department of Environmental
3 Quality, the Water Center of the University of Nebraska, and the
4 Conservation and Survey Division of the University of Nebraska.
5 In addition, the executive director may obtain assistance from any
6 private individual, organization, political subdivision, or agency
7 of the state or federal government.

8 Sec. 10. Section 2-15,101, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~2-15,101~~ Appropriations may be made to the ~~department~~
11 commission for all or part of the costs incurred by agencies
12 other than the ~~department~~ commission in conducting the state water
13 planning and review process. The state budget administrator shall
14 create a separate budget program within each agency that is to
15 receive a portion of such appropriations. To properly account for
16 such funds, recipients shall submit to the ~~department~~, commission,
17 in the form prescribed by the ~~department~~, commission, documentation
18 of all costs incurred in rendering services determined by the
19 ~~department~~ commission to be eligible for reimbursement.

20 Sec. 11. Section 2-15,103, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~2-15,103~~ The commission shall provide the executive
23 director and the Legislature upon request with the opinion of
24 the general public and various water interests in the state. It
25 is the intent of the Legislature that the commission consider the

1 different opinions of the individual members but, as a body, it
2 shall provide the executive director with input and comments on
3 state water planning and review process activities as they relate
4 to the overall use of Nebraska's water resources. The functions
5 of the commission shall include providing upon request advice and
6 assistance in the planning process by: (1) Identifying legislative
7 and administrative policy issues; (2) developing and reviewing
8 alternative solutions for legislative and administrative policy
9 problems, including impact assessment; (3) recommending the types
10 of problems needing analysis and where such problems are located or
11 likely to be located; (4) disseminating information and materials
12 generated by the planning process to the public; (5) determining
13 the conditions under which and the methods by which additional
14 public input is to be obtained; and (6) reviewing and commenting on
15 reports produced through the planning process.

16 Sec. 12. Section 2-15,105, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 ~~2-15,105~~ It is the intent of the Legislature that the
19 public have maximum input into the formulation of state water
20 policy. The executive director shall conduct one or more public
21 hearings prior to the completion of any recommendations to the
22 Legislature on methods of addressing water policy issues. All
23 materials produced as part of the state water planning and review
24 process shall be available to interested persons and groups upon
25 request. The ~~department~~ commission or other agency providing such

1 material may make a charge therefor which does not exceed the
2 actual cost of providing the same.

3 Sec. 13. Section 2-15,106, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 ~~2-15,106~~ On or before September 15 for each odd-numbered
6 year and on or before the date provided in section 81-132 for
7 each even-numbered year, the executive director shall submit an
8 annual report and plan of work for the state water planning and
9 review process to the Legislature and Governor. The report shall
10 include a listing of expenditures for the past fiscal year, a
11 summary and analysis of work completed in the past fiscal year,
12 funding requirements for the next fiscal year, and a projection and
13 analysis of work to be completed and estimated funding requirements
14 for such work for the next succeeding four years. The explanation
15 of future funding requirements shall include an explanation of
16 the proposed use of such funds and the anticipated results of
17 the expenditure of such funds. The report shall, to the extent
18 possible, identify such information as it affects each agency
19 or other recipient of program funds. The explanation of future
20 funding requirements shall be in a form suitable for providing an
21 explanation of that portion of the budget request pertaining to the
22 state water planning and review process.

23 Sec. 14. Section 49-506, Revised Statutes Cumulative
24 Supplement, 2008, is amended to read:

25 49-506 After the Secretary of State has made the

1 distribution provided by section 49-503, he or she shall deliver
2 additional copies of the session laws and the journal of the
3 Legislature pursuant to this section in print or electronic format
4 as he or she determines, upon recommendation by the Clerk of the
5 Legislature and approval of the Executive Board of the Legislative
6 Council.

7 One copy of the session laws shall be delivered to
8 the Lieutenant Governor, the State Treasurer, the Auditor of
9 Public Accounts, the Reporter of the Supreme Court and Court of
10 Appeals, the State Court Administrator, the State Fire Marshal,
11 the Department of Administrative Services, the Department of
12 Aeronautics, the Department of Agriculture, the Department of
13 Banking and Finance, the State Department of Education, the
14 Department of Environmental Quality, the Department of Insurance,
15 the Department of Labor, the Department of Motor Vehicles, the
16 Department of Revenue, the Department of Roads, the Department
17 of Veterans' Affairs, the Department of Natural Resources, the
18 Military Department, the Nebraska State Patrol, the Nebraska
19 Commission on Law Enforcement and Criminal Justice, each of
20 the Nebraska state colleges, the Game and Parks Commission,
21 the Nebraska Library Commission, the Nebraska Liquor Control
22 Commission, the Nebraska Accountability and Disclosure Commission,
23 the Nebraska Statewide Water Planning Commission, the Public
24 Service Commission, the State Real Estate Commission, the Nebraska
25 State Historical Society, the Public Employees Retirement Board,

1 the Risk Manager, the Legislative Fiscal Analyst, the Public
2 Counsel, the materiel division of the Department of Administrative
3 Services, the State Records Administrator, the budget division of
4 the Department of Administrative Services, the Tax Equalization
5 and Review Commission, the inmate library at all state penal
6 and correctional institutions, the Commission on Public Advocacy,
7 and the Library of Congress; two copies to the Governor, the
8 Secretary of State, the Nebraska Workers' Compensation Court, the
9 Commission of Industrial Relations, and the Coordinating Commission
10 for Postsecondary Education, one of which shall be for use by
11 the community colleges; three copies to the Department of Health
12 and Human Services; four copies to the Nebraska Publications
13 Clearinghouse; five copies to the Attorney General; nine copies to
14 the Revisor of Statutes; sixteen copies to the Supreme Court and
15 the Legislative Council; and thirty-five copies to the University
16 of Nebraska College of Law.

17 One copy of the journal of the Legislature shall be
18 delivered to the Governor, the Lieutenant Governor, the State
19 Treasurer, the Auditor of Public Accounts, the Reporter of the
20 Supreme Court and Court of Appeals, the State Court Administrator,
21 the Nebraska State Historical Society, the Legislative Fiscal
22 Analyst, the Tax Equalization and Review Commission, the Commission
23 on Public Advocacy, and the Library of Congress; two copies to
24 the Secretary of State, the Commission of Industrial Relations,
25 and the Nebraska Workers' Compensation Court; four copies to the

1 Nebraska Publications Clearinghouse; five copies to the Attorney
2 General and the Revisor of Statutes; eight copies to the Clerk
3 of the Legislature; thirteen copies to the Supreme Court and the
4 Legislative Council; and thirty-five copies to the University of
5 Nebraska College of Law. The remaining copies shall be delivered
6 to the State Librarian who shall use the same, so far as required
7 for exchange purposes, in building up the State Library and in the
8 manner specified in sections 49-507 to 49-509.

9 Sec. 15. Section 49-617, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 49-617 The Revisor of Statutes shall cause the statutes
12 to be printed. The printer shall deliver all completed copies to
13 the Supreme Court. These copies shall be held and disposed of
14 by the court as follows: Sixty copies to the State Library to
15 exchange for statutes of other states; five copies to the State
16 Library to keep for daily use; not to exceed twenty-five copies
17 to the Legislative Council for bill drafting and related services
18 to the Legislature and executive state officers; as many copies
19 to the Attorney General as he or she has attorneys on his or her
20 staff; as many copies to the Commission on Public Advocacy as it
21 has attorneys on its staff; up to sixteen copies to the State
22 Court Administrator; thirteen copies to the Tax Commissioner; eight
23 copies to the Nebraska Publications Clearinghouse; six copies to
24 the Public Service Commission; four copies to the Secretary of
25 State; four copies to the Tax Equalization and Review Commission;

1 four copies to the Clerk of the Legislature for use in his or
2 her office and three copies to be maintained in the legislative
3 chamber, one copy on each side of the chamber and one copy at the
4 desk of the Clerk of the Legislature, under control of the sergeant
5 at arms; three copies to the Auditor of Public Accounts; three
6 copies to the Department of Health and Human Services; two copies
7 each to the Governor of the state, the Chief Justice and each
8 judge of the Supreme Court, each judge of the Court of Appeals,
9 the Clerk of the Supreme Court, the Reporter of the Supreme Court
10 and Court of Appeals, the Commissioner of Labor, and the Revisor
11 of Statutes; one copy each to the Secretary of State of the
12 United States, each Indian tribal court located in the State of
13 Nebraska, the library of the Supreme Court of the United States,
14 the Adjutant General, the Air National Guard, the Commissioner
15 of Education, the State Treasurer, the Board of Educational
16 Lands and Funds, the Director of Agriculture, the Director of
17 Administrative Services, the Director of Aeronautics, the Director
18 of Economic Development, the director of the Public Employees
19 Retirement Board, the Director-State Engineer, the Director of
20 Banking and Finance, the Director of Insurance, the Director of
21 Motor Vehicles, the Director of Veterans' Affairs, the Director
22 of Natural Resources, the Director of Correctional Services,
23 the executive director of the Nebraska Statewide Water Planning
24 Commission, the Nebraska Emergency Operating Center, each judge of
25 the Nebraska Workers' Compensation Court, each commissioner of the

1 Commission of Industrial Relations, the Nebraska Liquor Control
2 Commission, the State Real Estate Commission, the secretary of
3 the Game and Parks Commission, the Board of Pardons, each state
4 institution under the Department of Health and Human Services,
5 each state institution under the State Department of Education, the
6 State Surveyor, the Nebraska State Patrol, the materiel division of
7 the Department of Administrative Services, the personnel division
8 of the Department of Administrative Services, the Nebraska Motor
9 Vehicle Industry Licensing Board, the Board of Trustees of the
10 Nebraska State Colleges, each of the Nebraska state colleges, each
11 district judge of the State of Nebraska, each judge of the county
12 court, each judge of a separate juvenile court, the Lieutenant
13 Governor, each United States Senator from Nebraska, each United
14 States Representative from Nebraska, each clerk of the district
15 court for the use of the district court, the clerk of the Nebraska
16 Workers' Compensation Court, each clerk of the county court, each
17 county attorney, each county public defender, each county law
18 library, and the inmate library at all state penal and correctional
19 institutions, and each member of the Legislature shall be entitled
20 to two complete sets, and two complete sets of such volumes as are
21 necessary to update previously issued volumes, but each member of
22 the Legislature and each judge of any court referred to in this
23 section shall be entitled, on request, to an additional complete
24 set. Copies of the statutes distributed without charge, as listed
25 in this section, shall be the property of the state or governmental

1 subdivision of the state and not the personal property of the
2 particular person receiving a copy. Distribution of statutes to the
3 library of the College of Law of the University of Nebraska shall
4 be as provided in sections 85-176 and 85-177.

5 Sec. 16. Section 61-206, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 61-206 (1) The Department of Natural Resources is given
8 jurisdiction over all matters pertaining to water rights for
9 irrigation, power, or other useful purposes except as such
10 jurisdiction is specifically limited by statute. Such department
11 shall adopt and promulgate rules and regulations governing matters
12 coming before it. It may refuse to allow any water to be used
13 by claimants until their rights have been determined and made
14 of record. It may request information relative to irrigation and
15 water power works from any county, irrigation, or power officers
16 and from any other persons. It may have hearings on complaints,
17 petitions, or applications in connection with any of such matters.
18 Such hearings shall be had at the time and place designated by
19 the department. The department shall have power to certify official
20 acts, compel attendance of witnesses, take testimony by deposition
21 as in suits at law, and examine books, papers, documents, and
22 records of any county, party, or parties interested in any of the
23 matters mentioned in this section or have such examinations made
24 by its qualified representative and shall make and preserve a true
25 and complete transcript of its proceedings and hearings. If a final

1 decision is made without a hearing, a hearing shall be held at
2 the request of any party to the proceeding if the request is made
3 within thirty days after the decision is rendered. If a hearing
4 is held at the request of one or more parties, the department may
5 require each such requesting party and each person who requests to
6 be made a party to such hearing to pay the proportional share of
7 the cost of such transcript. Upon any hearing, the department shall
8 receive any evidence relevant to the matter under investigation and
9 the burden of proof shall be upon the person making the complaint,
10 petition, and application. After such hearing and investigation,
11 the department shall render a decision in the premises in writing
12 and shall issue such order or orders duly certified as it may deem
13 necessary.

14 (2) The Except as provided in the Nebraska Statewide
15 Water Planning Commission Act, the department shall serve as the
16 official agency of the state in connection with water resources
17 development, soil and water conservation, flood prevention,
18 watershed protection, and flood control.

19 (3) The department shall:

20 (a) Offer assistance as appropriate to the supervisors or
21 directors of any subdivision of government with responsibilities in
22 the area of natural resources conservation, development, and use in
23 the carrying out of any of their powers and programs;

24 (b) Keep the supervisors or directors of each such
25 subdivision informed of the activities and experience of all other

1 such subdivisions and facilitate cooperation and an interchange of
2 advice and experience between such subdivisions;

3 (c) Coordinate the programs of such subdivisions so far
4 as this may be done by advice and consultation;

5 (d) Secure the cooperation and assistance of the United
6 States, any of its agencies, and agencies of this state in the work
7 of such subdivisions;

8 (e) Disseminate information throughout the state
9 concerning the activities and programs of such subdivisions;

10 (f) Plan, develop, and promote the implementation of a
11 comprehensive program of resource development, conservation, and
12 utilization for the soil and water resources of this state in
13 cooperation with other local, state, and federal agencies and
14 organizations;

15 (g) When necessary for the proper administration of the
16 functions of the department, rent or lease space outside the State
17 Capitol; and

18 (h) Assist such local governmental organizations as
19 villages, cities, counties, and natural resources districts in
20 securing, planning, and developing information on flood plains to
21 be used in developing regulations and ordinances on proper use of
22 these flood plains.

23 Sec. 17. Original sections 2-1599, 2-15,100, 2-15,101,
24 2-15,103, 2-15,105, 2-15,106, and 61-206, Reissue Revised Statutes
25 of Nebraska, and sections 49-506 and 49-617, Revised Statutes

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1 Cumulative Supplement, 2008, are repealed.